

PROPOSED AMENDMENTS TO E.O. 12065

1. Alter the tone of the Order to reflect that its primary purpose is the protection of national security information.
2. Include, possibly in Section 1-101, a statement that nothing in the Order is meant to impair or affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure as provided in subsection 102(d)(3) of the National Security Act of 1947, as amended, and Section 6 of the CIA Act of 1949, as amended.
3. Include the "third agency rule" in the Order. (It currently appears in Section IV.D. of ISOO Directive No. 1)
4. Eliminate the systematic declassification review requirements of the Order and all references to a classification "date for review." A fallback position would be systematic declassification review of intelligence sources and methods information no earlier than seventy-five years from its date of origin. If systematic review should remain, permit an agency head to delegate the authority to extend classification beyond any maximum review date. An alternative to any systematic review requirement would be to provide that all classified information be identified at time of origin with a definite date for automatic declassification (however far in the future it might be). A further possibility would be to provide that such a date may be impossible to determine.
5. Eliminate the balancing test, and possibly eliminate from Section 1-101 the "less restrictive" criteria for resolving doubt as to proper classification level.
6. Amend the mandatory review provisions of the Order to exempt all information less than ten years old.
7. Obligate any agency conducting declassification reviews of intelligence sources and methods information to adhere to guidelines approved by the Director of Central Intelligence.
8. Establish minimum security investigative standards required for access to each of the three national security information classification levels, and include a prohibition against an agency unilaterally granting a security clearance to an individual whose clearance was revoked for security reasons by another agency.
9. Reduce the role of the Information Security Oversight Office to approximately that of its predecessor, the Interagency Classification Review Committee.

10. In Section 1-302 add the "aggregate" or "mosaic" effect as a basis for classification and ensure the wording will apply to the information in a single document as well as information in two or more documents.

11. Amend Section 1-504 to permit agency heads listed in Sections 1-201 and 1-202 to grant portion marking waivers for all classes of documents or information. A possible fallback position would be:

1-504 Portion Marking

(a) In order to facilitate excerpting and other uses, each classified document shall, by marking or other means, indicate clearly which portions are classified, with the applicable classification designation, and which portions are not classified. The Director of the Information Security Oversight Office may, for good cause, grant and revoke waivers of this requirement for specified classes of documents or information.

(b) Notwithstanding (a) above, agency heads listed in Sections 1-201, 1-202, and 1-203 may grant waivers of this requirement for classes of documents that (1) are originated by an agency or contractor over which the agency head has classification control, (2) are only disseminated internally within or between such agency or contractor, (3) are impracticable to portion mark, and (4) will not be used as the basis for the classification of other documents.

(c) All documents classified under a portion marking waiver shall bear a notation indicating that they may not be used as the basis for derivative classification.

12. Amend Sections 1-501 and 4-102 to provide for the omission of classification markings when the markings themselves would disclose a covert relationship not otherwise evident, and in section 1-501 extend the marking requirement to apply to all media forms.

13. Amend subsection 1-204(a) to permit agency heads listed in Section 1-201 to delegate the responsibility for approval of Top Secret classification authority to a single subordinate senior official with Top Secret classification authority.

14. Eliminate Section 2-302 which concerns the classification duration of new material that derives its classification from information classified under prior Orders.

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15. Eliminate Section 1-606 which concerns the authorization required to classify a document after an FOIA or mandatory review request for it is received. A fallback position would be to permit an agency head to delegate to a senior subordinate official with Top Secret classification authority the authority in this section that is presently limited to an agency head or deputy agency head.

16. The Special Assistant to the DCI for Compartmentation will provide comments to the Office of General Counsel on matters related to sensitive compartmented information.

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